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7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,)	No. CR-09-00871 CW
)	
11 Plaintiff,)	STIPULATION AND PROPOSED
)	ORDER CONTINUING STATUS
12 v.)	HEARING AND SETTING BEFORE
)	MAGISTRATE JUDGE
13 JAVIER GARCIA-ARMENTA,)	
)	Hearing Date: January 20, 2010
14 Defendant.)	Requested Date: February 17, 2010 at 10:00
)	a.m. before the Hon. Laurel Beeler

16 The above-captioned matter is set on January 20, 2010 before the Court for a status
17 hearing. The parties jointly request that the Court continue the matter to February 17, 2010 at
18 10:00 a.m. for a change of plea hearing before the Honorable Laurel Beeler, and that the Court
19 exclude time under the Speedy Trial Act, 18 U.S.C. §§ 3161(H)(7)(A) and (B)(iv), between
20 January 20, 2010 and February 17, 2010.

21 On August 27, 2009, the Grand Jury indicted Mr. Garcia-Armenta with possession with
22 the intent to distribute methamphetamine under 21 U.S.C. § 841(a)(1). He faces a maximum
23 sentence of 20-years imprisonment, although government counsel informed the defense that a
24 higher sentence may apply depending upon the total drug amount involved, including a
25 mandatory minimum sentence. Mr. Garcia-Armenta made his initial appearance on September
26 25, 2009.

1 The current status of the case is that the defense requires additional time to investigate
 2 this case, which allegedly involved three undercover buys with a confidential informant. For
 3 example, the defense has requested additional discovery from the government, specifically, video
 4 and audio recordings of the three alleged controlled buys. The parties are currently negotiating
 5 how that discovery will be produced. Additionally, the parties are awaiting test results on drug
 6 evidence collected in this case from the Drug Enforcement Agency's (DEA) lab. The defense
 7 believes that all of the DEA drug lab reports are necessary so that the defense can complete an
 8 analysis of Mr. Garcia-Armenta's sentencing exposure.

9 The parties agree that the requested continuance will allow the defense to complete its
 10 investigation of the underlying facts of the case, to review necessary records and for the parties to
 11 complete plea negotiations. The parties anticipate that there will be a change of plea by the next
 12 appearance. Because Judge Wilken is unavailable in February, the parties ask that the matter be
 13 calendared before the Honorable Laurel Beeler for a change of plea hearing on February 17,
 14 2010.

15 The parties further agree that the failure to grant a continuance would unreasonably deny
 16 counsel for defendant the reasonable time necessary for effective preparation, taking into account
 17 the exercise of due diligence. For this reason, the parties stipulate and agree that the time from
 18 January 20, 2010 to February 17, 2010 should be excluded in accordance with the provisions of
 19 the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), for adequate preparation of
 20 counsel.

21
 22 January 15, 2010

_____/s/
 ANGELA M. HANSEN
 Assistant Federal Public Defender

23
 24 January 15, 2010

_____/s/
 WADE RHYNE
 Assistant United States Attorney

25 I hereby attest that I have on file all holograph signatures for any signatures indicated by a
 26

1 “conformed” signature (/S/) within this e-filed document.
2 _____

3 **ORDER**

4 Based on the reasons provided in the stipulation of the parties above, the Court hereby
5 finds that the ends of justice served by the continuance requested herein outweigh the best
6 interest of the public and the defendant in a speedy trial because the failure to grant the
7 continuance would deny counsel for the defendant the reasonable time necessary for effective
8 preparation, taking into account the exercise of due diligence. The Court makes this finding
9 because additional investigation and the production and review of certain records are necessary to
10 the defense preparation of the case.

11 Based on these findings, IT IS HEREBY ORDERED THAT the STATUS hearing date of
12 January 20, 2010 is continued to February 17, 2010 at 10:00 a.m. before the Honorable Laurel
13 Beeler for a change of plea hearing, and it is further ordered that time is excluded from January
14 20, 2010 to February 17, 2010 pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

15 IT IS SO ORDERED.

16
17 January 19, 2010 _____
18 Date

_____/s/ Laurel Beeler_____
LAUREL BEELER
United States Magistrate Judge